

2 MAY 1947

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of  
WITNESSES

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I N D E X

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Friday, 2 May 1947

- - -

INTERNATIONAL MILITARY TRIBUNAL  
FOR THE FAR EAST  
Court House of the Tribunal  
War Ministry Building  
Tokyo, Japan

The Tribunal met, pursuant to adjournment,  
at 0930.

- - -

Appearances:

For the Tribunal, same as before with the  
exception of: THE HONORABLE MR. JUSTICE NORTHCROFT,  
not sitting.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

- - -

(English to Japanese and Japanese  
to English interpretation was made by the  
Language Section, IMTFE.)



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1 MARSHAL OF THE COURT: The International  
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: All the accused are present  
4 except the accused TOGO who is represented by counsel.  
5 The prison surgeon at Sugamo certifies that the  
6 accused TOGO is too ill to attend the trial today.  
7 The certificate will be recorded and filed.

8 It is requested on behalf of the Language  
9 Division that all documents, including running com-  
10 mentaries of counsel, be presented to the Language  
11 Division forty-eight hours in advance in order to  
12 insure simultaneous interpretation, and that the  
13 Language Division be notified in advance of any  
14 deviations from the planned order or presentation.

15 The court reporting section requires from  
16 the defense a copy of running commentary of counsel  
17 and an accurate order of proof for each subdivision  
18 of their case twenty-four hours prior to use in court.  
19 Both the Clerk of the Court and the Marshal require an  
20 accurate order of proof for each subdivision of the  
21 case twenty-four hours in advance of presentation in  
22 court. In addition thereto they require to be fur-  
23 nished at the same time with a complete list of  
24 witnesses with the document number of their affidavit  
25 opposite their names.

TAKEDA

CROSS

1           The Clerk of the Court also requires where  
2 a defense document is to be presented as an excerpt  
3 from a basic document which is on deposit in the  
4 Clerk's office but not yet marked for identification  
5 that the number of the said basic document be indi-  
6 cated on the order of proof. In lieu thereof this  
7 data may be supplied to the Clerk on a separate  
8 memorandum.

9           The Member from China has drawn my attention  
10 to an article in the Stars and Stripes headed "China  
11 Negligence Brought War." He complains that the  
12 article contains a number of sweeping and inaccurate  
13 statements against the Chinese not warranted by the  
14 evidence. This appears to be so as a reference to  
15 the record will show.

16           Mr. Comyns Carr.

17           - - - -

18  
19 I S A M U T A K E D A, called as a witness on  
20 behalf of the defense, resumed the stand and  
21 testified through Japanese interpreters as follows:

22           CROSS-EXAMINATION

23           BY MR. COMYNS CARR (Continued):

24           Q   Mr. Witness, last evening I was asking you  
25 about the account you gave of this alleged murder of  
Lieutenant OYAMA. Let me be sure if I have got your

TAKEDA

CROSE

1 story right. Do you say that on the evening of the  
2 9th of August your subordinate officer went to the  
3 aerodrome and found on his first visit two Japanese  
4 bodies and no other?

5 A Yes, that is so.

6 Q And that he then paid a second visit. Was  
7 that on the same evening?

8 A Because of the crying need for preparations  
9 and for assembling the responsible persons from both  
10 the concerned powers as well as the journalists from  
11 third powers some time elapsed and the second visit  
12 took place at about midnight of the same evening--  
13 after midnight.

14 THE MONITOR: I believe it was after midnight  
15 when they finally went there the second time.

16 Q Do you say then that on that second visit  
17 representatives of China and Japan and of the news-  
18 papers went with him?

19 A The second in command, YAMANOUCHI --  
20 assistant staff officer YAMANOUCHI; yes, that is so.

21 Q And that they then found only two bodies,  
22 one of them being that of OYAMA and the other being  
23 that of a Chinese guard?

24 A Yes, that is so; and in addition the body  
25 of the chauffeur was found about five hundred yards



TAKEDA

CROSS

1 away at the entrance to the village.

2 Q Is it your suggestion that meanwhile the  
3 Chinese guards had shot one of their number and put  
4 him by the side of Lieutenant OYAMA?

5 A Yes, that is so.

6 Q And as I understood you to say yesterday  
7 that they had shot him with a rifle in order to  
8 prove that Lieutenant OYAMA had shot him with a  
9 revolver?

10 THE PRESIDENT: Mr. Roberts.

11 MR. ROBERTS: I object because it is assuming  
12 a state of facts which were not stated in that manner.

13 THE PRESIDENT: The witness may not have  
14 said it but he did suggest it.

15 MR. ROBERTS: The record will show he said  
16 as a result of an autopsy it was revealed that he was  
17 shot by a rifle bullet.

18 Q Is that your suggestion that they had shot  
19 him with a rifle in order to prove that Lieutenant  
20 OYAMA had shot him with a revolver?

21 A I don't understand the translation of that  
22 question -- I don't understand the question because  
23 of the translation.

24 MR. COMYNS CARR: Will the Language Division  
25 try again--

TAKEDA

CROSS

1 THE PRESIDENT: How does he know it is the  
2 translation that is at fault? You cannot know that  
3 a question is wrongly translated unless you know the  
4 question.

5 MR. ROBERTS: I would like to add that I  
6 do not believe the question in English is clear.

7 THE PRESIDENT: I do not think your view  
8 is shared by anybody on the Bench, Mr. Roberts.

9 The Japanese reporter had better repeat the  
10 question to see what results.

11 Are you still in doubt, Witness?

12 THE WITNESS: May I repeat what I said  
13 yesterday?

14 THE PRESIDENT: Answer the question if you  
15 can, if you understand it. If you do not, say so.

16 THE WITNESS: I do not understand, clearly  
17 understand, the purport of the question. I don't  
18 know what the prosecutor is trying -- is driving at;  
19 what answer he expects of me.

20 THE PRESIDENT: As long as you understand  
21 the question you are not concerned with what he is  
22 driving at or what he expects.

23 THE WITNESS: I do not have such a feeling.  
24 I do not feel that way.

25 THE PRESIDENT: I think the English reporter

1 had better repeat the question, please, so that it  
2 may be translated again.

3 (Whereupon, the last question was  
4 read by the official court reporter as follows:)

5 Q Is that your suggestion that they had shot  
6 him with a rifle in order to prove that Lieutenant  
7 OYAMA had shot him with a revolver?

8 A The Chinese trick became clear after this  
9 event, after the autopsy.

10 THE PRESIDENT: That is enough, Mr. Carr.  
11 He said it was a Chinese trick.

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TAKEDA

CROSS

1 Q When did the autopsy take place?

2 A In the morning or about noon the follow-  
3 ing day.

4 Q When did you get the report of it?

5 A The military surgeon immediately brought  
6 the report to me after the autopsy.

7 Q Who did?

8 A The military surgeon, the surgeon of the --  
9 medical officer of the naval landing party.

10 Q I see. So the autopsy was conducted by  
11 the naval landing party, was it?

12 A The autopsy took place at Chenju University  
13 in the presence of medical officers both from the  
14 Chinese side and from the Japanese naval landing  
15 party.

16 Q And do you still say that the Chinese ad-  
17 mitted that this story of yours is true?

18 A Yes, I still believe so.

19 Q Who on behalf of the Chinese?

20 A The medical officers who took part in the  
21 autopsy discovered that it was not so; that there was  
22 a discrepancy in the bullets.

23 Q Yes, but you know that is not what I was  
24 asking you. What you swore in **your** affidavit was  
25 that the Chinese Chief of Staff admitted this fact,

TAKEDA

CROSS

1 that is, the whole story about the shooting of  
2 OYAMA?

3 THE MONITOR: Mr. Carr, was that in  
4 paragraph eight, sir, end of paragraph 8 or 9?

5 MR. COMYNS CARR: End of eight.

6 A Yes, that is so.

7 Q Did you say that the Chief of Staff did  
8 admit it?

9 A Yes.

10 Q You know that you told me yesterday that  
11 it wasn't the Chief of Staff but some minor officer,  
12 and that all he said was that when he brought the  
13 bodies of the two men and delivered them to you he  
14 expressed his regret. Which is true?

15 A They are all true. If necessary I shall  
16 explain my statement.

17 Q I asked you yesterday who was the Chief of  
18 Staff. You said you couldn't tell me. Then I asked  
19 you who made this statement, and you said it was the  
20 junior officer who brought the bodies. You described  
21 him as the senior adjutant. He would be junior to  
22 the Chief of Staff, would he not?

23 A Yes, that is, of course, so. The Chief  
24 of Staff was at the time a Major General, and the  
25 Chinese representative who handled this case and who

TAKEDA

CROSS

1 was constantly in touch with Staff Officer YAMA-  
2 NOUCHI was a Lieutenant Colonel and the Senior  
3 Adjutant.

4 Q Now then, you state that the investiga-  
5 tion was also conducted by third party national  
6 newspaper men.

7 A Since this was a very important matter  
8 we thought it would be a good thing to take along  
9 neutral representatives.

10 Q Yes. And I was asking you whether one  
11 of them was the representative of the North China  
12 Daily News?

13 A Since I do not understand European  
14 languages very well I am not aware of the names of  
15 the various foreign papers, but I do know that  
16 representatives of all the most important foreign  
17 newspapers were there.

18 Q Don't you know that the North China  
19 Daily News is one of the most important, if not  
20 the most important, foreign newspaper in Shanghai?

21 A Yes, I would think it was an important  
22 newspaper, the ones the names of which I knew.

23 Q And was their representative there?

24 A A newspaper man? You mean newspaper man,  
25 a reporter?



TAKEDA

CROSS

Q A newspaper man from the newspaper?

A Yesterday I was looking over old newspapers, and I saw a photograph showing foreign newspaper men standing on the spot.

Q Do you mind answering my question? Was the representative of the North China Daily News there?

A Yes, I think, of course, a representative of that paper was there.

Q Do you suggest that they agreed to the truth of the story you have been telling us?

A Yes, as a matter of fact they did agree, all of them did agree.

Q Do you know that Mr. John B. Powell, who gave evidence before this Tribunal, was the editor of that newspaper?

A No, I am not aware of that -- no, I did not know.

TAKEDA

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1 Q I suggest to you that all that was ever  
2 established with regard to this matter was this: that  
3 evening an officer and a sailor of the Japanese Navy  
4 were shot and killed as they were trying to enter the  
5 Chinese airdrome at Hungjao.

6 THE PRESIDENT: Mr. Roberts.

7 MR. ROBERTS: Might I object to the giving  
8 of testimony by the prosecutor as to his version of  
9 what happened?

10 THE PRESIDENT: He is entitled to put his  
11 evidence to the witness. If he intended to make a  
12 mere statement he was wrong in so doing. But was he?  
13 Did he so intend? He didn't finish what he was going  
14 to say when you interrupted.

15 Will the English reporter please repeat what  
16 Mr. Conyns Carr said?

17 (Whereupon, the last question was  
18 read by the official court reporter.)

19 MR. ROBERTS: It appeared to me that the  
20 prosecutor was reading from a document of which we  
21 do not know the nature and that he was attempting to  
22 make this a part of the proof.

23 THE PRESIDENT: He can put his evidence to  
24 the witness whether he reads it or not as you know  
25 and as the defense frequently do. It isn't evidence

TAKEDA

CROSS

1 unless it has been already established or is established  
2 or is accepted by the witness. We know this. We know  
3 that Mr. Carr doesn't give evidence. Please don't  
4 remind us so often.

5 MR. ROBERTS: The remarks did not have the  
6 form of a question. It seemed to me to be more in the  
7 form of a narration.

8 MR. COMYNS CARR: I am surprised that my  
9 learned friend should say that I was reading from a  
10 document of which he does not know the nature because  
11 the document which was in front of him was one served  
12 upon us by the defense themselves but which they haven't,  
13 so far, seen fit to offer in evidence.

14 MR. ROBERTS: Perhaps the reason why we felt  
15 we could not offer it was a good reason, and there  
16 is not justification for the prosecution offering it  
17 in any event.

18 MR. COMYNS CARR: I will now complete my  
19 question. Language Division, I read down to the words  
20 "on the outskirts of Shanghai."

21 THE MONITOR: What document is this, sir?

22 MR. COMYNS CARR: Shall I begin again or will  
23 you carry on from there?

24 THE MONITOR: What document.

25 MR. COMYNS CARR: It isn't any document which



TAYEDA

CROSS

1 you have, but I was framing a question. Shall I begin  
2 again?

3 THE MONITOR: No, sir; it isn't necessary.

4 Q (Continuing) I spoke down to the words  
5 "airdrome at Hungjao on the outskirts of Shanghai,  
6 and the Chinese guard at the airdrome was also killed."

7 Is it not the fact that that was all that was  
8 ever established about this matter?

9 A No, that isn't so.

10 Q Now did you tell this story that you have  
11 told us to Mr. OKAMOTO, the consul-general?

12 A Yes, of course I told the consul-general.  
13 From that time I have always kept in constant -- I  
14 have been in contact with him constantly.

15 Q You were present at the meeting of the joint  
16 committee on the 12th of August, were you not?

17 A Yes. Is that all concerning the OYAMA case  
18 because I should like to add something to my statement.

19 Q Were you surprised to find that Mr. OKAMOTO  
20 did not say a word about these admissions having been  
21 made or this story of yours at all at that meeting?

22 THE MONITOR: Mr. Carr, "these admissions  
23 having been made." You mean admissions by the Chinese?

24 MR. COMYNS CARR: Yes.

25 A No, I wasn't surprised.

TAKEDA

CROSS

1 THE MONITOR: I wasn't surprised particularly.

2 Q Did you say anything about it yourself?

3 A No. The committee had to handle far more  
4 important matters than the OYAMA matter -- OYAMA case.

5 THE MONITOR: Far more important and imminent  
6 matters.

7 Q But the OYAMA case, according to you, and so  
8 far we can agree, was the foundation of the whole of  
9 this outbreak in Shanghai, was not it?

10 A There are other fundamental causes of this  
11 outbreak.

12 THE MONITOR: The fundamental cause or the  
13 cause of this outbreak lies elsewhere in something  
14 more fundamental. The cause of the outbreak lies  
15 elsewhere in something more fundamental.

16 Q Now would you mind telling me what right or  
17 business Lieutenant OYAMA had to be anywhere near  
18 this airdrome on this night?

19 A Let me explain so that it can be well under-  
20 stood. The guarding of the eastern -- of the western  
21 side of Shanghai was the responsibility of the English  
22 troops -- British troops. However, in this sector  
23 there were many Japanese interests, for instance,  
24 the Naigai Cotton Spinning Mill and other Japanese  
25 enterprises, as well as a great number of Japanese

TAKEDA

CROSS

1 residents. In accordance with the agreement made at  
2 the defense council -- at the defense committee --  
3 Shanghai defense committee, a Japanese naval landing  
4 party consisting of about a hundred members were dis-  
5 patched -- were stationed in this western sector. There  
6 were Japanese interests along the driveway, along the  
7 Extension Road.

8 THE MONITOR: There were many Japanese  
9 interests along the driveway of this Extension Road  
10 upon which this incident occurred.

11 A (Continuing) Lieutenant OYA A, being command-  
12 ing officer of this unit, was responsible for seeing  
13 that all -- responsible for being on guard and knowing  
14 what was going on in his section. Especially at that  
15 time there were acts of terrorism at various places,  
16 and the commanding officer of the Japanese naval  
17 landing force -- landing unit -- had an extremely  
18 important responsibility of protecting the Japanese  
19 residents.

20  
21 THE MONITOR: "The commander of the Japanese  
22 naval landing parties" corrected to "the commander  
23 of the unit." In other words, Lieutenant OYAMA.

24 A (Continuing) So that Lieutenant OYAMA was  
25 merely conducting an inspection of the sector allotted  
to him.



TAFEDA

CROSS

1 THE MONITOR: Just as he always did.

2 THE PRESIDENT: It seems to me the monitor  
3 is telling the interpreter what to say. The monitor's  
4 duty is to correct the interpreter if he goes wrong.  
5 We might as well have no interpreter but just the  
6 monitor. We might save time if we had that arrange-  
7 ment, too.

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1 Q Is not this airdrome in what you call the  
2 prohibited zone?

3 A The airdrome was situated at the place --  
4 on the other side of the Soochow River; and so,  
5 according to the wording of it -- according to the  
6 actual wording of the agreement, it cannot be said  
7 to be actually in the prohibited zone. However, in  
8 order to avoid fighting around -- in and around  
9 Shanghai, the Chinese had stationed troops in this  
10 area; and until about July 1932 there were hardly  
11 any Chinese troops in this area at all.

12 Q But what business had Japanese armed men  
13 there?

14 A There were no Japanese troops in that  
15 area at that spot.

16 Q What was Lieutenant OYAMA?

17 A Lieutenant OYAMA was conducting an in-  
18 spection of the sector allotted to him.

19 Q But what do you mean allotting to him a  
20 sector of what you've called the prohibited zone?

21 A Lieutenant OYAMA did not go outside of  
22 the Extension Road. He kept to the Extension Road.

23 Q Well, now, you have referred to the foreign  
24 press. Did you see this account in the North China  
25 Daily News on the 10th of August?

1       A    No; I did not read the paper, so I did not  
2       know.

3       Q    Then let me put my question another way.  
4       Was this a fact: When the parties, as you've de-  
5       scribed, were out there at midnight on the 9th,  
6       did the foreign residents in the neighborhood of  
7       the shooting state that the two Japanese were in  
8       uniform and the chauffeur was wearing a steel  
9       helmet? Was that a fact?

10       THE MONITOR: Mr. Carr, when you say  
11       "two Japanese were in uniform and the chauffeur  
12       was wearing a steel helmet," are we to take it that  
13       there were three altogether, or do you mean one of  
14       them was a chauffeur?

15       MR. COMYNS CARR: Two. One of them was  
16       the chauffeur with the steel helmet.

17       A    Yes. What they wore at that time was  
18       probably so.

19       Q    Is it a fact that on previous days parties  
20       of Japanese had visited the airfield and been  
21       turned back by the Chinese?

22       A    No, that is not so, and nothing like that  
23       could have happened.

24       Q    So much so that the Chinese had to send  
25       up an airplane to spot them as they were hiding in



TAKEDA

CFOSS

the fields nearby?

1       A   No, that is not so; that is absolutely not  
2   so.

3       Q   And, although you were interested in the  
4   foreign press, you didn't read anything about that  
5   in the North China Daily News?

6       A   No. The reason why we took representa-  
7   tives of the foreign power press was because we  
8   thought it would be better if they were shown --  
9   shown what had taken place, and because we con-  
10   sidered that it was an important thing to do.  
11   So, the representatives of all the more important  
12   papers were taken along.

13       Q   But you didn't trouble to find out what  
14   they said after they had been shown, did you?

15       A   The staff officer in charge of press  
16   affairs actually must have read the article. But,  
17   since I was so busy, I had no time to read the  
18   foreign press.

19       Q   Now, when the first report came in of  
20   this shooting, before you sent out your assistant,  
21   did it come to you from the Japanese naval attache?

22       A   Although it may take some time, I should  
23   like to explain the actual circumstances.

24       Q   Answer the question first.  
25

TAKEDA

CROSS

1       A    The first report we had of this affair  
2 came from the Chinese side. The mayor of the city  
3 telephoned to Consul-General OKAMOTO. That is what  
4 I believe. The telephone call said that west of  
5 Shanghai there was fighting going on between Chi-  
6 nese and Japanese troops, and the mayor asked that  
7 the hostilities be suspended -- be stopped.

8       Consul-General OKAMOTO passed this informa-  
9 tion on to me. To this I answered that another  
10 big demonstration had probably started -- that  
11 another rumor had been started, so, therefore,  
12 that nothing like that could have happened and to  
13 ignore the telephone call.

14       Q    Is that what you said in fact: that  
15 nothing of the kind could have happened because  
16 no officer or man of the naval landing party had  
17 any orders to go out on that evening?

18       A    No, that isn't so. No. What I said was  
19 that there was no fighting going on between Chi-  
20 nese and Japanese troops; that there were no Japane-  
21 ese troops in that area. There was a second call  
22 from Consul-General OKAMOTO to the same effect.  
23 I again told Consul-General OKAMOTO that he should  
24 not be fooled by such a rumor.  
25

Upon being called by telephone for the

TAKEDA

CROSS

1 third time, I then told Consul-General OKAMOTO  
2 that "If you are so worried about the case, then  
3 let us go and make an investigation on the spot --  
4 that both Japanese and Chinese representatives  
5 should go to the spot for investigation." Contact  
6 was made with the Chinese forces, and a staff  
7 officer was sent out to the spot. That was when  
8 we first were -- became aware of the incident.  
9 Staff officers from both sides were sent out to  
10 the spot.

11 Q Now, is it true that within thirty-six  
12 hours of this incident happening, thirty addition-  
13 al Japanese warships appeared in the river off  
14 Shanghai?

15 A No, I am not aware of that.

16 Q How many do you say?

17 A Since I was in the landing party, I was --  
18 I did not know very much about what was happening  
19 on sea.

20 Q Did you know that, on the settlement water-  
21 front on the 11th of August, there were a large  
22 party, approximately four thousand men, being landed  
23 from ships which had just arrived in the harbor?

24 A After the OYAMA incident, about one  
25



TAKEDA

CROSS

1 thousand members of the landing party were sent  
2 from Japan to Shanghai. But that took place on  
3 the day following the incident or, perhaps, the  
4 day after that.

5 Q Do you know that by noon on August the  
6 11th, the cruiser IZUMO, two destroyers and nine  
7 gunboats, and twenty-eight ships in all, were tied  
8 up -- Japanese warships -- were tied up at buoys  
9 and wharves in the river?

10 A Since the IZUMO was the flagship, and  
11 there were other Japanese naval vessels in the  
12 Yangtze, that may have been so. But I am not sure  
13 of the number.

14 THE PRESIDENT: We will recess for fifteen  
15 minutes.

16 (Whereupon, at 1045, a recess  
17 was taken until 1100, after which the  
18 proceedings were resumed as follows:)  
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TAKEDA

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1 MARSHAL OF THE COURT: The International  
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Comyns Carr.

4 CROSS-EXAMINATION (Continued)

5 BY MR. COMYNS CARR:

6 Q Mr. Witness, was the Izumo the flagship  
7 of the Japanese Third Fleet?

8 A Yes.

9 Q On the afternoon of the 10th of August  
10 were there four cruisers and two destroyers which  
11 arrived in the harbor? I can give you the names  
12 of the cruisers, if you like.

13 A Since I was connected with the naval land-  
14 ing party, I was not -- I did not know very much of  
15 what happened at sea.

16 Q You mean that you can't answer whether  
17 these ships -- I will give the names: Sendai,  
18 Natori, Yura, and the Kinu.

19 Are you telling us that you don't know  
20 whether they arrived or whether they didn't?

21 A Yes, that is so. Since I was in the naval  
22 landing party, I didn't know.

23 Q Did five more ships arrive in the harbor  
24 on the night of the 10th?

25 A I don't know.

TAKEDA

CROSS

1 Q Did an aircraft carrier and more warships  
2 anchor off Woosung that night?

3 A For the same reasons, I don't know very  
4 well.

5 Q On the afternoon of the 11th did you go to  
6 the O.S.K. Vangtzepoo wharf?

7 A No, I don't think I went to such a place  
8 at such a time.

9 Q Were you interested in the reinforcements  
10 and ammunition which were coming for your landing  
11 party?

12 A I did know that there were one thousand re-  
13 inforcements, but as senior staff officer I did not  
14 go -- A senior staff officer does not go to the  
15 wharf every time to see what is happening.

16 Q Did you see the lorries arriving at your  
17 landing party headquarters continuously to and fro  
18 from the wharf all that afternoon with ammunition?

19 A No, I am not aware of such minor details.

20 Q But where were you if you weren't at the  
21 headquarters or at the wharf or anywhere where you  
22 could see either the lorries or the fleet?

23 A I was in the headquarters.

24 Q And you didn't see the lorries coming in?

25 A No, I don't know how many trucks came,



TAKEDA

CROSS

1 because I was always on the move.

2 Q On the morning --

3 THE MONITOR: Hold it.

4 Since a great many lorries were going to  
5 and fro, I could not keep account of them.

6 THE PRESIDENT: It isn't what he saw that  
7 matters but what he knew or did not know. You would  
8 think that he, as chief of staff, would know all  
9 those things, although he might not see lorries or  
10 ammunition or reinforcements, that is to say, if  
11 those things happened, and we make no assumption  
12 from the cross-examination apart from admissions by  
13 the witness.

14 THE WITNESS: Out of one thousand reinforce-  
15 ments five hundred were sent to the Shanghai East  
16 End Kunda Textile Mill, and the other five hundred  
17 were sent to the North Primary School.

18 Q Would it be correct to describe the assem-  
19 bly of Japanese warships in the harbor at Shanghai  
20 on the afternoon of the 11th of August as one of the  
21 most imposing displays of naval might Shanghai has  
22 ever seen?

23 A You are at liberty to describe it as you  
24 will, but according to my recollection, there was  
25 no such great assembly of Japanese vessels.

TAKEDA

CROSS

1 THE PRESIDENT: I suppose, Mr. Carr,  
2 we can assume that you will prove, or attempt to  
3 prove, these things you are putting to the witness  
4 so far as they are not already in evidence and so  
5 far as they are not admitted by him.

6 MR. COMYNS CARR: Yes, your Honor.

7 THE PRESIDENT: I refer merely to the  
8 concentration of men, material, and ships at Shang-  
9 hai at the time.

10 MR. COMYNS CARR: Yes, your Honor.

11 Q On the morning of the 12th of August did  
12 your press officer inform you that all the matters  
13 I have been putting to you about ships, reinforce-  
14 ments, and ammunition had appeared in the North  
15 China Daily News that morning and purported to be  
16 the actual observation, in the main, of one of their  
17 staff?

18 A No, I have no recollection of that.

19 Q Tell me, when were the orders given for the  
20 additional fleet to come to Shanghai?

21 A I don't know.

22 Q Did you ask for them to be sent?

23 A No, I did not.

24 Q Did your commanding officer or did the  
25 naval attache in Shanghai ask for them to be sent?

TAKEDA

CROSS

1 A No, the commanding officer did not do so,  
2 and the naval attache did not have any such authority.

3 Q So, according to you, they arrived just on  
4 their own idea, did they?

5 A I don't know whether such a great fleet  
6 came or not, but in any case, the movements of a  
7 fleet would be on instruction from superiors and we  
8 would know nothing of such affairs.

9 Q But you tell us definitely that the naval  
10 authorities in Shanghai did not ask for it to be  
11 sent?

12 A What was that? Concerning the movements  
13 of the fleet, being in the naval landing party, we  
14 knew nothing about it.

15 Q Now, you were present at the meeting of the  
16 Commission on the 12th of August?

17 A Yes.

18 Q Did you hear Mr. Yui, the Mayor, say this?  
19 I am going to read from exhibit 2516, defense docu-  
20 ment 1063, the last paragraph on page 4 and part of  
21 page 5.

22 THE MONITOR: Just a minute. Is that from  
23 "rejoining Mr. Yui"?

24 MR. COMYNS CARR: That is right. It is  
25 the reply of Mr. Yui to a speech of Mr. OKAMOTO,



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1 which has already been read.

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1 (Reading): "Rejoining Mr. Yui stated that  
2 the Chinese delegates were not a whit behind their  
3 Japanese friends in their desire to maintain peace  
4 and good order in Shanghai, but he submitted that  
5 peace and good order could be maintained only through  
6 sincere cooperation on the part both of China and  
7 of Japan. He would like to clarify one point raised  
8 by his Japanese colleague, who had just mentioned  
9 that the Chinese delegate had assured him only last  
10 night that the Paoantui would be withdrawn from  
11 areas close to Japanese residents. He would point  
12 out that the Chinese Civil Delegate had not made  
13 such a statement, but that he, as Mayor of Greater  
14 Shanghai had an interview with the Japanese Consul-  
15 General last night, when the latter had asked for  
16 the withdrawal of the Paoantui.

17 "He (the Mayor) had then raised the question  
18 of the reported arrival of heavy Japanese naval  
19 reinforcements outside Woosung, whereupon the  
20 Japanese Consul-General had expressed surprise and  
21 uttered the remark that he didn't know anything about  
22 it. He (the Mayor) then said that if there was no  
23 truth in that report he would agree to withdraw  
24 certain of the Paoantui. However, no sooner had the  
25 Consul-General for Japan departed when reports began

TAKEDA

CROSS

1 pouring into the Mayor's office substantiating the  
2 earlier reports of the arrival of Japanese rein-  
3 forcements. Thus the Chinese side was compelled to  
4 adopt measures of self-defense."

5 Q Do you remember those things being said by  
6 Mr. Yui?

7 A If it appears in the record, he must  
8 have said so.

9 Q Did either you or Mr. OKAMOTO make the  
10 slightest attempt to deny them?

11 A Denial of what?

12 Q To deny the statements about the arrival  
13 of the Japanese naval reinforcements?

14 A I didn't think it was necessary to deny  
15 that. Mr. Consul-General OKAMOTO spoke with Mayor  
16 Yui in English, but at necessary parts -- at  
17 necessary junctions I took part in the conversation  
18 and asked questions.

19 Q Why wasn't it necessary to deny it if it  
20 wasn't true?

21 A I believe that Consul-General OKAMOTO did  
22 deny the statement -- such rumours.

23 THE PRESIDENT: Mr. Roberts.

24 MR. ROBERTS: I believe the minutes as just  
25 read stated that he didn't know anything about it.



TAKEDA

CROSS

1 MR. COMYNS CARR: The minutes as just read  
2 stated that he said on the evening of the 11th in  
3 the interview with Mayor Yui that he didn't know  
4 anything about it; but when the statement was  
5 repeated on the afternoon of the 12th I can trace  
6 no attempt at a denial in the minutes.

7 MR. ROBERTS: I assume that this is a  
8 report at the meeting on the 12th and that the  
9 reply was made at that time.

10 MR. COMYNS CARR: In my submission that  
11 is not a proper interruption in cross-examination.

12 THE PRESIDENT: The minutes are clear,  
13 and they were tendered by the defense.

14 BY MR. COMYNS CARR:

15 Q Now did you hear this further discussion  
16 at the meeting?

17 MR. COMYNS CARR: Language Division, I  
18 shall be reading the whole of page 11 except the  
19 first two lines and part of page 12:

20 (Reading) "Mr. OKAMOTO reminded the meeting  
21 that the danger of a clash was imminent, which caused  
22 Mr. Gauss to remark that apparently nothing could  
23 be done tonight.

24 "Mr. Yui observed that if the Chinese side  
25 was not encroached upon, nothing would happen tonight,

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1 tomorrow night or any other night.

2 "Mr. Gauss enquired if Mr. Yui had anything  
3 to suggest which the Foreign Powers might attempt  
4 to do to alleviate the situation and which would  
5 be acceptable to the Chinese side.

6 "Mr. OKAMOTO interjected that some of the  
7 Japanese warships had left Shanghai this afternoon,  
8 whereupon Mr. Yui remarked that others may be  
9 coming.

10 "Mr. Davidson asked if it were possible  
11 to get an assurance from both sides not to make  
12 an attack within say 24 or 48 hours to see if some-  
13 thing could be done in the meantime?

14 "Mr. Yui replied that he could give an  
15 assurance that if the Chinese side were not attacked,  
16 they would not attack, whether in 24 hours, 24 days  
17 or 24 years. The Chinese side were always on the  
18 defensive.

19 "Mr. OKAMOTO remarked that his side did  
20 not want to make any trouble so long as they were  
21 not provoked or challenged. That he could say  
22 with authority.

23 "Mr. Yui asked how Mr. OKAMOTO understood  
24 provocation. Mr. OKAMOTO replied that if the Japanese  
25 side were threatened they would attack.

TAKEDA

CROSS

1 "Mr. Yui observed that the Chinese side  
2 would not attack but would defend themselves.

3 "Mr. OKAMOTO stated that a Japanese news-  
4 paper man had been arrested that morning at the  
5 North Station by Chinese troops stationed there.  
6 He was trying to find out where he was. That was  
7 provocation.

8 Mr. Yui related how the Commissioner of  
9 Public Utilities had been dragged out of his car  
10 last year and searched by Japanese Marines. Mr.  
11 OKAMOTO said it was useless to pursue those mutual  
12 recriminations.

13 "Mr. Davidson enquired if there were any  
14 independent Chinese Military units in the areas  
15 adjacent to the Japanese positions.

16 "Mr. Yui replied that he could give assurances  
17 that there were no independent units in those areas."

18 Q Did you agree with Mr. OKAMOTO when the  
19 Chinese said they would not attack unless they were  
20 attacked -- that the Japanese would attack if they  
21 were provoked or challenged?

22 A It was always said that, unless we were  
23 attacked, we would not take the offensive.

24 Q Well, you see, that is the exact opposite  
25 of what Mr. OKAMOTO, according to the minutes, said.



TAKEDA

CROSS

1           A    I don't think it is the opposite.

2           MR. ROBERTS: May I ask at this point  
3 whether or not the part just read by the prosecutor  
4 was actually read to the witness because he may  
5 have been on a different circuit. May I be  
6 informed by the IBM Operator on that? Or perhaps  
7 the witness can inform us whether it was read to  
8 him.

9           THE MONITOR: The IBM Operator informs  
10 me that the witness did listen to the Japanese  
11 version.

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1 Q Well, now, on page 9 of your affidavit you  
2 say in the third and fourth lines of paragraph 13  
3 that the Japanese on the morning of the 13th were  
4 fired upon from the building of the Commercial Press  
5 Warehouse. Where is that in Shanghai?

6 A At a distance of five or six hundred yards from  
7 the naval landing party.

8 Q Is it the same place as the China Press Build-  
9 ing?

10 A No, it isn't in the same place. It is in the  
11 middle of the Chapei District.

12 Q Mr. OKAMOTO told us yesterday that the firing  
13 was from the China Press Building. Which of you is  
14 right?

15 A I think that must have been some mistake.

16 Q Were you there?

17 A Yes, I was in the headquarters of the naval  
18 landing party.

19 THE PRESIDENT: Is that the same as the  
20 Commercial Press Building?

21 A The same with what? I don't know what is  
22 meant by China Press Building.

23 THE PRESIDENT: In another part of the docu-  
24 ment the expression is "Commercial Press Building."

25 MR. COMYNS CARR: That is the witness' account.

TAKEDA

CROSS

1 THE PRESIDENT: General Cramer and I dis-  
2 cussed that yesterday afternoon.

3 MR. COMYNS CARR: Perhaps we are not referring  
4 to the same document, your Honor. Does your Honor  
5 mean in Mr. OKAMOTO's affidavit he refers to two dif-  
6 ferent buildings in two different parts?

7 THE PRESIDENT: During his evidence.

8 Q By that time, whoever actually fired the first  
9 shot, the position had got to the point when your  
10 forces were taking so strong a position there was  
11 bound to be an outbreak, hadn't it?

12 A We were following the principle of non-  
13 extension, and so if only one shot was fired the com-  
14 manding officer was determined not to move his troops.

15 Q What I am suggesting to you is this: That  
16 nobody will ever know who fired the first shot, but  
17 the bringing up of huge reinforcements made an out-  
18 break inevitable.

19 MR. ROBERTS: I object to the question as  
20 being argumentative.

21 THE PRESIDENT: It could be looked at that  
22 way.

23 Q Do you say that from the naval headquarters  
24 you could, yourself, know where the shot came from?

25 A Yes. That came from the reports from officers



1 and soldiers, and also from lookouts.

2 Q Yes. But that means you can't say you,  
3 yourself, know anything about it, can you?

4 A Of course, I was in the operation room or  
5 else in the staff officers' room, so I wasn't upstairs  
6 on the lookout post so I could not have seen what hap-  
7 pened.

8 Q I suggest to you that nobody from the naval  
9 larding party building could see either of the two  
10 buildings that have been referred to at all.

11 A To which buildings do you refer?

12 Q Either the one which you mentioned, the  
13 Commercial Press Building, or the one -- the Commercial  
14 Press Warehouse, or the one which Mr. OKAMOTO mentioned,  
15 the China Press Building.

16 A I don't know what the China Press refers to,  
17 but the Commercial Press--

18 THE MONITOR: I do not know whether China  
19 Press is the English translation of the word which is  
20 commonly translated as the Commercial Press Building --  
21 Shomuin Shokan.

22 MR. COMYNS CARR: No. I thought we had agreed  
23 that they are too entirely different buildings in two  
24 different parts of the city.

25 MR. ROBERTS: Perhaps the prosecutor has agreed

but I don't think the witness has agreed.

1           MR. COMYNS CARR: That is what the witness  
2           said.

3           MR. ROBERTS: I believe the Court will recall  
4           that he said he wasn't familiar with the China Press  
5           Building and didn't know what the prosecutor was talk-  
6           ing about.

7           MR. COMYNS CARR: Well, let's get it quite  
8           clear.

9           Q   Do you agree that the Commercial Press Ware-  
10          house and the China Press Building are two entirely  
11          different buildings in different parts of Shanghai?  
12

13          A   I don't know what is referred to by the China  
14          Press Building.

15          Q   Is not the China Press Building a newspaper  
16          office, and is not the Commercial Press Warehouse a  
17          publisher's warehouse?

18          A   Yes, the Commercial Press Building is a book  
19          store.

20          Q   Well, let's confine my question to that. I  
21          suggest to you that nobody from any part of the naval  
22          landing headquarters could see whether shots were coming  
23          from the Commercial Press Warehouse or not.

24          A   It can clearly be seen. The Commercial Press  
25          Warehouse is a four or five story large building, and

TAKEDA

CROSS

1 anyone on top of that building can overlook the whole  
2 of Shanghai.

3 Q Are not the landing headquarters and the Com-  
4 mercial Press Warehouse in quite different roads?

5 A In entirely different -- on different roads,  
6 that is to say the Commercial Press Warehouse is in  
7 the Chapei District and the headquarters of the Japanese  
8 naval landing party is at the end of Extension Road.

9 Mr. COMYNS CARR: Yes. I leave it there,  
10 your Honor.

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TAKEDA

REDIRECT

1 THE PRESIDENT: Before you re-examine,  
2 Mr. Roberts, I have the following questions to put to  
3 the witness on behalf of a Member of the Court:

4 Did the reinforcements arrive in Shanghai  
5 without any previous notice to the Japanese naval  
6 landing party?

7 THE WITNESS: We received notification of  
8 the arrival of 1,000 reinforcements.

9 THE PRESIDENT: On what day and at what hour  
10 did you receive that notice?

11 THE WITNESS: I do not know the time, but it  
12 was after the OYAMA Incident.

13 THE PRESIDENT: Mr. Roberts.

14 REDIRECT EXAMINATION

15 BY MR. ROBERTS:

16 Q Mr. TAKEDA, on the reading of your testimony,  
17 a question was raised concerning your statement that  
18 the Peace Preservation Corps had been fixed at 2,000  
19 and for the exclusion of cannon as means of arms. I  
20 want to read to you from the minutes of the Joint  
21 Meeting and ask you if that is the agreement that you  
22 referred to.

23 MR. COMYNS CARR: Your Honor, I object to  
24 this question. It does not arise out of cross-  
25 examination. During the reading I pointed out instead

TAKEDA

REDIRECT

1 of objecting to the witness' expressing opinions about  
2 the meaning of the Cease-Fire Agreement, I pointed  
3 out that the Cease-Fire Agreement did not contain any  
4 reference to either of those matters. As the  
5 construction of the agreement is a matter for the Court,  
6 I did not cross-examine about it at all.

7 If my friend after cross-examination wanted  
8 to refer to some other agreement, he could have done  
9 so by supplementary question after the reading of  
10 the affidavit. But it does not arise out of anything  
11 asked in cross-examination.

12 MR. ROBERTS: The prosecutor has specifically  
13 called the attention of the Court to the fact that  
14 the 2,000 mentioned in the affidavit was not understood  
15 as having come under this agreement. He likewise  
16 made the same reference to the statement of the wit-  
17 ness that they were not supposed to have cannons and  
18 that the cannons they had was in contravention of the  
19 understanding.  
20

21 We would like to show from the Chinese repre-  
22 sentative himself, exactly what the understanding was  
23 so that this Court may be clear.

24 THE PRESIDENT: The cross-examination has  
25 left nothing in doubt to be cleared up in this respect.  
All we have to consider is the examination in chief,

TAKEDA

REDIRECT

1 page 2, and the agreement itself.

2 MR. ROBERTS: If your Honor please, there  
3 seems to be some misunderstanding. There seems to have  
4 been another agreement as to the number of troops  
5 which would be stationed there, Peace Preservation  
6 troops.

7 THE PRESIDENT: We can always give permission  
8 to open new matter under certain circumstances.

9 MR. ROBERTS: I would like your permission to  
10 do that.

11 THE PRESIDENT: I think the Court is quite  
12 prepared to give you permission to refer to this new  
13 matter, to open this new matter.

14 MR. ROBERTS: Thank you, your Honor.

15 Q The minutes read as follows:

16 "Mr. OKAMOTO rejoined by saying that follow-  
17 ing upon the signing of the 1932 Agreement the City  
18 Government of Greater Shanghai decided to establish  
19 the Peace Preservation Corps in Chapei beginning  
20 July 1st that year. As the Japanese side was not  
21 without apprehension lest this body, the Pae-An Tui  
22 as it is known in Chinese, should be something akin to  
23 a regular armed force, the Japanese delegate at the  
24 time, acting under instructions from his Government,  
25 asked Mr. O. K. Yui for information regarding the real



TAKEDA

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23 a regular armed force, the Japanese delegate at the  
24 time, acting under instructions from his Government,  
25 asked Mr. O. K. Yui for information regarding the real

TAKEDA

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1 nature of the Pao-An Tui. Mr. Yui explained that the  
2 object in creating this body was no other than the  
3 maintenance of peace and order in Chapei; that the  
4 Pao-An Tui was so-called in order to distinguish it from  
5 the existing police force of the Public Safety Bureau  
6 and that the body was to be 2000 strong, which would  
7 be divided into two regiments, each regiment being sub-  
8 divided into three battalions. Mr. Yui further declared  
9 that although revolvers, guns and machine guns would  
10 be supplied to the Pao-An Tui, tanks, armoured-cars  
11 and bomb-guns, etc., would not form parts of their  
12 equipment, and that soldiers of the regular army would  
13 on no account be incorporated into the said organiza-  
14 tion, whose members would be composed exclusively of a  
15 portion of the Peiping Pao-An Tui, constables of the  
16 Public Safety Bureau, and some ex-gendarmes. These  
17 statements of Mr. O. K. Yui at the time were recorded  
18 at his Consulate-General."

19 MR. COMYNS CARR: Your Honor, that does not  
20 purport to be, as suggested by my friend, anything said  
21 by Mr. Yui in the meeting. It purports to be some-  
22 thing alleged by Mr. OKAMOTO in the meeting to have  
23 been said by Mr. Yui, not even to Mr. OKAMOTO himself  
24 but to some other Japanese official. And if you will  
25 follow down the middle of page 8 of the minutes, you

TAKEDA

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1 will see Mr. Yui inquired of the chairman whether or  
2 not he should reply to Mr. OKAMOTO's remarks about  
3 the Peace Preservation Corps, but the chairman went  
4 on to a different subject, so the allegation was  
5 never replied to by Mr. Yui.

6 THE PRESIDENT: We will adjourn until  
7 half-past one.

8 (Whereupon, at 1200, a recess was  
9 taken.)

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## AFTERNOON SESSION

1 The Tribunal met, pursuant to recess, at 1330.

2 MARSHAL OF THE COURT: The International  
3 Military Tribunal for the Far East is now resumed.  
4

5 - - - -

6 I S A N U T A K E D A, called as a witness on  
7 behalf of the defense, resumed the stand and  
8 testified through Japanese interpreters as follows:  
9

10 THE PRESIDENT: Mr. Comyns Carr.

11 MR. COMYNS CARR: Your Honor, there is one  
12 small correction I should like to make. I am told  
13 that I was mistaken in suggesting to the witness this  
14 morning that Mr. Powell was the editor of the North  
15 China Daily News. Mr. Powell's paper was the China  
16 Weekly. It does not affect the point of my question  
17 because the witness told me that the representative  
18 of the North China Daily News was one of those taking  
19 part in the inquiry of which he spoke.

20 THE PRESIDENT: Until the defense ask us to  
21 accept Mr. Powell as a reliable reporter of events.

22 Mr. Roberts.

23 MR. ROBERTS: As far as I recall the prosecutor  
24 mentioned that Mr. Powell had testified something to  
25 the contrary from that stated by the witness; wasn't

TAKEDA

REDIRECT

that so?

MR. COMYNS CARR: No.

MR. ROBERTS: I take it that the Court will disregard the reference made to Mr. Powell previously then as the editor of the China Daily News. Might we further assume that if the Court does not accept the statements and the book of Mr. Powell that it will not accept statements from the prosecution as well. I refer to statements from the book, of course.

THE PRESIDENT: The best way to treat your observations is with contemptuous silence. You are warning us against accepting his evidence, something which we know is not evidence.

MR. ROBERTS: I was simply trying to clarify the situation, if your Honor please, so that it will be clear in my own mind.

REDIRECT EXAMINATION

BY MR. ROBERTS (Continued):

Q Referring to the statement in your affidavit on page 2, Mr. TAKEDA, concerning the force of the Peace Preservation Corps having been determined at 2000 and the equipment that they were to have, can you tell us when and how this agreement was arrived at?

THE PRESIDENT: Mr. Comyns Carr.

MR. COMYNS CARR: Your Honor, obviously he

TAKEDA

REDIRECT

1 cannot. With my friend having already read the allega-  
2 tion of Mr. OKAMOTO that it was an agreement supposed  
3 to have been arrived at between Mr. Yui and another  
4 unnamed Foreign Office official how can this gentleman  
5 possibly know about it?

6 MR. ROBERTS: That is exactly the point. We  
7 want to find out with whom the agreement was made and  
8 who participated.

9 THE PRESIDENT: Does he know?

10 MR. ROBERTS: I believe he does, if your Honor  
11 please.

12 THE PRESIDENT: Ask him.

13 Q Do you know, Mr. TAKEDA, of the agreement  
14 that you refer to on page 2 of the affidavit concerning  
15 the number of troops in the Peace Preservation Corps  
16 and the type of armaments they were supposed to carry?

17 A Yes.

18 Q Can you tell us if this arose out of the  
19 agreement of May 5, 1932?

20 A Yes.

21 MR. COMYNS CARR: Your Honor, ought not the  
22 witness first to be asked whether he was present when  
23 the alleged agreement was made and if it was alleged  
24 to be in writing where the documents are?

25 MR. ROBERTS: I believe this will all be



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1 brought out in the course of the witness' testimony.

2 THE PRESIDENT: You should know because he  
3 is your witness and you know what he can say.

4 MR. ROBERTS: That is correct.

5 Q Now, will you tell us how this agreement  
6 came to be drawn and under what circumstances?

7 A In accordance with the provisions of the  
8 main text of the truce agreement there is a provision  
9 that after the conclusion of the agreement the Japanese  
10 forces were to withdraw into the International Settle-  
11 ment and that their place -- that the place or the  
12 functions performed by the Japanese forces were to  
13 be taken over by the Chinese police. Being desirous  
14 of knowing some concrete details of what was to take  
15 place after the withdrawal of the Japanese forces the  
16 Japanese side, in accordance with the instructions  
17 from the Japanese Government, inquired of the Chinese  
18 municipal government what type of arrangement they were  
19 going to create thereafter --

20 MR. COMYNS CARR: Your Honor, I object. The  
21 witness was not here, was not in Shanghai according  
22 to his affidavit, until December 1936 and he is now  
23 purporting to tell us something that happened in 1932.

24 THE INTERPRETER: "I was there in 1932," said  
25 the witness.

1 THE PRESIDENT: He can contradict himself.  
2 We cannot stop him. His last word may be as good  
3 if not better than his first.

4 Q Will you proceed to tell us about the  
5 agreement, Mr. TAKEDA?

6 A The reply of the municipal government to  
7 the Japanese inquiry came in an official document. The  
8 contents were as follows:--

9 THE PRESIDENT: Mr. Carr, you have to observe  
10 that red light. General paralysis will set in if  
11 you don't do that. After all, we are not a jury  
12 and we can afford to hear these things which prove  
13 to be inadmissible.

14 MR. COMYNS CARR: Your Honor--

15 THE PRESIDENT: I know it is very provoking  
16 but still we all have to suffer.

17 MR. COMYNS CARR: Your Honor, I reminded  
18 my friend that he should first ask whether the docu-  
19 ment was in writing and if so where it is. Now after  
20 all these questions it appears that there is alleged  
21 to be a document and the document is not produced.  
22 Your Honor will remember at the beginning of this  
23 particular section I pointed out that owing to the  
24 failure to cross-examine our witness about this Shanghai  
25 matter we had no proper notice of what was intended to

1 be alleged. Under those circumstances in my submission  
2 it is proper for us to endeavor to be strict as to  
3 the type of material put before the Tribunal as  
4 evidence.

5 THE PRESIDENT: These matters are of vital  
6 importance and adequate proof should be offered. The  
7 only way to prove a document adequately is to produce  
8 it or account for its absence.

9 MR. ROBERTS: I believe the witness will show  
10 that it is not our document; that it was drawn by  
11 another authority, the municipal council, and that  
12 we have no means of obtaining that or of having it in  
13 our control. The witness will bring that out.

14 THE PRESIDENT: My colleagues are in grave  
15 doubt whether you understand the rule which I have  
16 laid down repeatedly that if you want to prove the  
17 contents of a document you must produce it or account  
18 for its absence in such a way that you must be excused  
19 from producing it. There is no requirement that I  
20 have stated more frequently and my colleagues are at  
21 a loss to know why counsel does not understand what I  
22 am saying about it.

23 MR. ROBERTS: We are not particularly  
24 interested in proving the contents of that document  
25 or any particular document except to have this witness



1 explain the figure of 2000 and the limitation of  
2 arms which he claims comes under the original  
3 armistice terms.

4 THE PRESIDENT: If the proof rests on the  
5 contents of an agreement the agreement must be pro-  
6 duced or its absence accounted for. You cannot talk  
7 us out of that.

8 Q Mr. TAKEDA, do you know who drew the  
9 original agreement that you refer to?

10 A This was received from the Chinese side  
11 and the Naval Landing Party had a copy of it.

12 Q Do you know who drew the original?

13 A This was drawn up by the municipal govern-  
14 ment of the Chinese side and was sent by the mayor,  
15 the Chinese mayor, as an official document.

16 Q Do you know whether the original document  
17 is in existence today or not?

18 A I should think that they would be at the  
19 Japanese Consulate General.

20 Q Are you speaking about the original document,  
21 Mr. TAKEDA?

22 THE PRESIDENT: He is; he said so. He said  
23 the original was sent somewhere.

24 MR. ROBERTS: I didn't think it was clear.  
25 I thought he said a copy was sent there.

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1 THE PRESIDENT: You must hear the evidence  
2 as we hear it and if you appreciate it you would not  
3 misunderstand it.

4 THE WITNESS: Mr. Roberts, may I say a word?  
5 The original text was sent to the Consulate General  
6 and a copy thereof came to the Japanese Naval Landing  
7 Party headquarters.

8 THE PRESIDENT: The original is with the  
9 Consulate General as far as we know; now get it.

10 MR. ROBERTS: We shall make a search and  
11 if it is there I assure you we shall produce it.

12 Q Mr. TAKEDA, will you please tell us the  
13 distance from the Commercial Press Warehouse to the  
14 naval headquarters?

15 A About 500 to 600 yards.

16 MR. ROBERTS: May I state with reference to  
17 the agreement referred to that in view of the fact  
18 that Shanghai is now in the hands of the Chinese,  
19 perhaps we might call upon the prosecution to aid us  
20 in attempting to procure that document if it is possible.

21 THE PRESIDENT: There is no need to discuss  
22 ways and means here. You know that the correct thing  
23 is to apply in Chambers to me. The Charter fully  
24 deals with this situation.

25 Q Mr. TAKEDA, will you describe to us what you

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1 call the prohibited zone in Shanghai.

2 THE PRESIDENT: This is really new matter  
3 which is not covered by our permission but--

4 MR. ROBERTS: It is leading into the question  
5 of the Extension Road where the incident of Lieutenant  
6 OYAMA occurred.

7 THE PRESIDENT: Go ahead.

8 A Whether it be the forces, the armed forces,  
9 or the civilians of any country the Settlement Roads  
10 and the Extra-Settlement Roads or Extension Roads were  
11 used as -- they acted on the Extension Roads as they  
12 did within the Settlement.

13 Q In other words the Extension Roads were  
14 regarded in the same manner as the Settlement itself?

15 A Exactly, yes.

16 Q Do you recall about the time that evacuees  
17 and refugees were brought from Shanghai to Hankow and  
18 other parts of China?

19 A Yes.

20 Q Will you tell us when that occurred?

21 A Japanese residents of Hankow evacuated the  
22 city and were brought to Shanghai on gunboats, destroyers  
23 and steamships arriving at Shanghai on the 10th of  
24 August the day after the killing of Lieutenant OYAMA.

25 Q Did this occasion considerable activity in



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1 Shanghai at that time?

2 A The fact that they came to Shanghai did not  
3 create -- did not become any particular stimulus.

4 Q Now, you refer to a trick as you character-  
5 ized it on the part of the Chinese with reference to  
6 the shooting of the Chinese soldier. Were you refer-  
7 ring to the shooting of the soldier or the placing  
8 of the body as a trick?

9 MR. COMYNS CARR: Your Honor, he made it  
10 quite clear that he meant both.

11 THE PRESIDENT: What do you wish to clarify,  
12 Mr. Roberts?

13 MR. ROBERTS: That there is some misunder-  
14 standing that the Chinese soldier may have been regarded  
15 as having been shot deliberately by the Chinese and  
16 having his body placed there as a trick.

17 MR. COMYNS CARR: And that is precisely what  
18 the witness said and any question designed to get him  
19 to alter his testimony is in my submission improper.

20 THE PRESIDENT: My colleagues agree with your  
21 version and one has made a note; so your question is  
22 not directed to explain anything that has been left  
23 obscure and is not re-examination in the proper sense.  
24 The objection is allowed.

25 Q Mr. TAKEDA, are you familiar with the detachment

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1 of marines that was placed near the 8th Character  
2 Bridge?

3 A Yes.

4 Q How many men were in that detachment?

5 A A few with an NCO as its chief.

6 Q Were there any Japanese properties or  
7 residents in that area?

8 A Yes.

9 Q Tell us what type of property, please?

10 A The place just mentioned by you was about  
11 300 meters distant from the Naval Landing Party head-  
12 quarters. At that point the Naval Landing Party had  
13 some land, some lots. In this vicinity there were  
14 Japanese temples, Japanese cemetery, glass manufacturing  
15 company and saki breweries, and around these establish-  
16 ments there were a large number of Japanese residents  
17 there. The famous Rokusankaen Japanese restaurant was  
18 also located in this district.

19 Q Did this detachment operate in concert with  
20 the special municipal police and the Chinese police?

21 A Yes.

22 MR. ROBERTS: That completes the redirect  
23 examination. May the witness be excused on the usual  
24 terms?

25 THE PRESIDENT: He is excused accordingly.

(Whereupon, the witness was excused.)

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1 MR. ROBERTS: We shall now present proof  
2 of the facts surrounding certain incidents which  
3 occurred in and around Shanghai and Nanking in Aug-  
4 ust and December, 1937 for the purpose of showing  
5 this Tribunal that the incidents were not a delib-  
6 erate or systematic plan to conquer China or to  
7 drive out all American and British from China as  
8 claimed by the prosecution. On the contrary, we  
9 shall prove to this Tribunal that Japan took ex-  
10 treme measures to prevent any undue hardships to  
11 foreign nations and their properties; and, where  
12 accidental damage or injury occurred due to exist-  
13 ing conditions, they pursued a course of settlement  
14 and adjustment to the complete satisfaction of  
15 those affected. It will further be shown that  
16 Japan meted out swift punishment to those respon-  
17 sible for carelessness or disregard of the regula-  
18 tions.

19 It is the contention of the defense that  
20 some incidents such as the Panay case and the Lady-  
21 bird case, having been amicably adjusted, should be  
22 regarded as closed incidents.

23 I now present Mr. SOMIYA who will offer  
24 some of the proof aforementioned.

25 THE PRESIDENT: Counsellor SOMIYA.



1 MR. SOMIYA: The documents will give proof  
2 of the so-called Hugessen case.

3 First I offer in evidence defense document  
4 No. 71, which is the reply of the Foreign Minister  
5 addressed to the British Ambassador to Japan, dated  
6 September 6, 1937, relative to the Ambassador  
7 Hugessen injury case.

8 THE PRESIDENT: Admitted on the usual terms.

9 CLERK OF THE COURT: Defense document No.  
10 71 will be given exhibit No. 2519.

11 (Whereupon, the document above re-  
12 ferred to was marked defense exhibit No.  
13 2519 and received in evidence.)

14 MR. SOMIYA: I shall read exhibit No. 2519:

15 "REPLY OF THE MINISTER FOR FOREIGN AFFAIRS  
16 TO THE BRITISH AMBASSADOR, SEPTEMBER 9.

17 "Monsieur l'Ambassadeur:

18 "I have the honour to acknowledge the re-  
19 ceipt of the note, No. 125, under the date of Aug-  
20 ust 29, addressed to me by Mr. J. L. Dodds, then  
21 Charge d'Affaires of the British Embassy, concern-  
22 ing the incident in which Sir Hughe Knatchbull-  
23 Hugessen was wounded.

24 "The Japanese Government, on receiving the  
25 news of the event in question, took a grave view

1 of the incident, and hastened to convey expres-  
2 sions of profound sympathy to His Britannic Maj-  
3 esty's Government and to Sir Hughe through myself  
4 and the Ambassadors to the Court of St. James and  
5 to Chirō respectively and, at the same time, they  
6 sent urgent instructions to the authorities on  
7 the spot to investigate the case thoroughly. Al-  
8 though the results of these investigations have so  
9 far failed to produce any evidence to establish  
10 that the shooting was done by a Japanese aero-  
11 plane, the Japanese Government is taking measures  
12 for further investigations by the authorities on  
13 the spot in order to spare no efforts to ascertain  
14 the facts of the case.

15 "In these circumstances, it is still im-  
16 possible to determine whether or not the responsi-  
17 bility for the incident rests with Japan. Neverthe-  
18 less, in view of the traditional ties of friend-  
19 ship which bind Japan and Great Britain, the Japan-  
20 est Government express their profound regret that  
21 Sir Hughe should have met with such a misfortune  
22 incidental to the hostilities that were actually  
23 in progress in the region of Taitung on that par-  
24 ticular day.

25 "In this connection, I wish to assure

1 Your Excellency that the Japanese forces always  
2 take the fullest precautions against causing injur-  
3 ies to non-combatants, and it is certainly very  
4 far from the desire of the Japanese Government that  
5 such an unfortunate event should ever occur in fu-  
6 ture through any fault of their own. Fresh instruc-  
7 tions have consequently been sent to their authori-  
8 ties on the spot to exercise the strictest caution  
9 in this regard. I earnestly hope, therefore, that  
10 the British authorities will, on their part, kind-  
11 ly cooperate with the Japanese authorities with  
12 a view to forestalling the recurrence of a similar  
13 event by taking such necessary measures as giving  
14 notice in advance to the Japanese authorities on  
15 the spot when entering a zone of danger.

16 "In making the above ad interim reply, I  
17 avail myself of this opportunity to renew to Your  
18 Excellency the assurances of my highest considera-  
19 tion.

20 "Sir Robert Craigie

21 "His Britannic Majesty's Ambassador to Japan."  
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1           Secondly, I would like to call the atten-  
2       tion of the Court to exhibit No. 265 which was al-  
3       ready introduced by the prosecution section. This  
4       is a document entitled "Our Final Reply on the  
5       Injury Case of the British Ambassador to China,"  
6       addressed to the British Ambassador to Japan from  
7       the Foreign Minister, dated September 21, 1937.  
8       This document will prove that, should the said  
9       accident be attributable to the Japanese Army, it  
10      is due to their having mistaken the Ambassador  
11      Hugessen's automobile for either a military bus  
12      or auto-truck and not an intentional act.

13           I next offer defense document No. 73, which  
14      is the letter under the date of September 23, 1937,  
15      addressed to the Foreign Minister by the British  
16      Ambassador to Japan. It proves that this case  
17      was settled between both countries concerned.

18           THE PRESIDENT: Admitted on the usual terms.

19           CLERK OF THE COURT: Defense document No.  
20      73 will be given exhibit No. 2520.

21           (Whereupon, the document above re-  
22      ferred to was marked defense exhibit No.  
23      2520 and received in evidence.)

24           MR. SOMIYA: I shall read exhibit No.  
25      2520.

1 "NOTE OF THE BRITISH AMBASSADOR TO THE  
2 MINISTER FOR FOREIGN AFFAIRS.

3 "British Embassy

4 "Tokyo

5 "23rd September, 1937.

6 "No. 148.

7 "Monsieur le Ministre,

8 "I have the honour to inform Your Excellen-  
9 cy that I duly communicated to His Majesty's Govern-  
10 ment in the United Kingdom the terms of the Note  
11 which Your Excellency addressed to me on the 21st  
12 September in regard to the attack on His Majesty's  
13 Ambassador in China by two aeroplanes in the neigh-  
14 borhood of Shanghai on 26th August last.

15 "2. I have now received instructions from  
16 His Majesty's Government to state that they have  
17 received this communication with satisfaction and  
18 regard the incident as closed.

19 "I avail myself of this opportunity to re-  
20 new to Your Excellency the assurance of my highest  
21 consideration."

22 Signed: "R. L. Craigie."

23 To: "His Excellency

24 "Mr. Koki HIROTA

25 "H.I.J.M. Minister for Foreign Affairs."

1 I next offer defense document No. 1076,  
2 being the excerpt from the article in the ASAHI  
3 dated November 24, 1937.

4 THE PRESIDENT: Brigadier Nolan.

5 BRIGADIER NOLAN: May it please the Tri-  
6 bunal, defense document No. 1076 is a press re-  
7 lease appearing in a Japanese newspaper. It pur-  
8 ports to set out selected excerpts from what was  
9 said during question time in the British House of  
10 Commons. This document, we submit, is subject to  
11 the same objections as has been made in respect  
12 of other press releases and possesses no probative  
13 value.

14 MR. SOMIYA: The portions I am intending  
15 to read are those pertaining to this incident --

16 THE MONITOR: Excerpts from this document.

17 MR. SOMIYA: (Continuing) This report was  
18 based upon telegrams sent by the Domei News Agency  
19 from London relating to a debate in the British  
20 House of Commons. I feel that the reading of this  
21 document should be permitted inasmuch as the con-  
22 tents of this document are of a public character.

23 THE PRESIDENT: By a majority, the Court  
24 upholds the objection and rejects the document.

25 MR. SOMIYA: We shall offer proof next



1 regarding the so-called Panay Incident by documents  
2 and witnesses.

3 Now we shall offer defense document No.  
4 136. This document was what was addressed by the  
5 Foreign Minister to the American Ambassador to  
6 Japan on December 14, 1937. It was evidence that  
7 this incident was entirely due to mis-bombing.

8 THE PRESIDENT: Brigadier Nolan.

9 BRIGADIER NOLAN: May it please the Tri-  
10 bunal, this document is also a press release and,  
11 as such, would be objectionable. It does, however,  
12 contain the note of the Japanese Government to the  
13 Government of the United States, dated 14 December,  
14 1937, and really nothing but the note. The prose-  
15 cution is satisfied that this document is a true  
16 copy of the original note in question; and, in  
17 order to obviate any unnecessary delay, we feel  
18 that this might be a convenient manner in bringing  
19 it to the attention of the Tribunal.

20 THE PRESIDENT: Well, Brigadier, you are  
21 somewhat inconsistent, aren't you? As much could  
22 have been said for the document just rejected. If  
23 that press release, purporting to contain a ques-  
24 tion and an answer in the House of Commons, is at  
25 all relevant, and you did not take the ground that

1 it was irrelevant, you probably do not question  
2 the reliability of the newspaper account.

3 You see, we have to be satisfied of that  
4 probative value. You are telling us that the docu-  
5 ment now tendered has probative value because you  
6 are satisfied it is a correct statement of the  
7 Japanese Foreign Minister's despatch. But you  
8 withhold your imprimatur from the document just  
9 rejected. You are entitled to do so, but it seems  
10 to me to be a matter for comment.

11 BRIGADIER NOLAN: May it please the Tri-  
12 bunal, this document, on its face, is open to  
13 precisely the same objection as the document we  
14 have just dealt with. What I am endeavoring to do  
15 is to explain to the Tribunal that this document,  
16 containing as it does a true copy of the note it-  
17 self, might afford a convenient method in bringing  
18 the contents of that note before the Tribunal. I  
19 am well aware of the fact that the proper way to  
20 prove the note is to produce it. Thus, it would  
21 have been proper to prove what took place in the  
22 House of Commons by offering a copy of the tran-  
23 script to the Tribunal. I was merely trying to  
24 save time. And if it should appear that I'm being  
25 inconsistent, I object to the document.

1 it was irrelevant, you probably do not question  
2 the reliability of the newspaper account.

3 You see, we have to be satisfied of that  
4 probative value. You are telling us that the docu-  
5 ment now tendered has probative value because you  
6 are satisfied it is a correct statement of the  
7 Japanese Foreign Minister's despatch. But you  
8 withhold your imprimatur from the document just  
9 rejected. You are entitled to do so, but it seems  
10 to me to be a matter for comment.

11 BRIGADIER NOLAN: May it please the Tri-  
12 bunal, this document, on its face, is open to  
13 precisely the same objection as the document we  
14 have just dealt with. What I am endeavoring to do  
15 is to explain to the Tribunal that this document,  
16 containing as it does a true copy of the note it-  
17 self, might afford a convenient method in bringing  
18 the contents of that note before the Tribunal. I  
19 am well aware of the fact that the proper way to  
20 prove the note is to produce it. Thus, it would  
21 have been proper to prove what took place in the  
22 House of Commons by offering a copy of the tran-  
23 script to the Tribunal. I was merely trying to  
24 save time. And if it should appear that I'm being  
25 inconsistent, I object to the document.



1 MR. SOMIYA: The document I am about to  
2 tender to the Court is not an excerpt or an ex-  
3 tract from a newspaper. It is an official docu-  
4 ment sent by the Foreign Minister of Japan to the  
5 United States Ambassador, and the certificate  
6 makes clear that the text of this document is true  
7 and correct, and I believe that this document  
8 should be admitted.

9 THE PRESIDENT: By a majority, the Court  
10 admits the document on the usual terms.

11 CLERK OF THE COURT: Defense document  
12 No. 136 will be given exhibit No. 2521.

13 (Whereupon, the document above re-  
14 ferred to was marked defense exhibit No.  
15 2521 and received in evidence.)  
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1 MR. SOMIYA: I shall now read exhibit 2521:

2 "Note of the Japanese Government to the U.S.  
3 Government dated December 14, 1937.

4 "Text of the Note.

5 "December 14, 1937.

6 "Monsieur l'Ambassadeur:

7 "Regarding the incident of the 12th December  
8 in which the United States gunboat Panay and three  
9 steamers belonging to the Standard Oil Company were  
10 sunk by the bombing of the Japanese naval aircraft  
11 on the Yangtze River at a point about twenty-six miles  
12 above Nanking, I had the honour, as soon as unofficial  
13 information of the incident was brought to my knowledge,  
14 to request Your Excellency to transmit to the Govern-  
15 ment of the United States the apologies of the Japanese  
16 Government. From the reports subsequently received  
17 from our representatives in China, it has been estab-  
18 lished that the Japanese naval air force, acting upon  
19 information that the Chinese troops fleeing from  
20 Nanking were going up the river in steamers, took off  
21 to pursue them, and discovered such vessels at the  
22 above mentioned point. Owing to poor visibility, how-  
23 ever, the aircraft, although they descended to fairly  
24 low altitudes, were unable to discern any mark to show  
25 that any one of them was an American ship or man-of-war.





1 Consequently the United States gunboat Panay and the  
2 vessels of the Standard Oil Company, being taken for  
3 Chinese vessels carrying fleeing Chinese troops, were  
4 bombed and sunk.

5 "While it is clear, in the light of the above  
6 circumstances, that the present incident was entirely  
7 due to a mistake, the Japanese Government regret most  
8 profoundly that it has caused damages to the United  
9 States man-of-war and ships and casualties among those  
10 on board, and desire to present hereby sincere apologies.  
11 The Japanese Government will make indemnification for  
12 all the losses and deal appropriately with those  
13 responsible for the incident. Furthermore, they have  
14 already issued strict orders to the authorities on the  
15 spot with a view to preventing the recurrence of a  
16 similar incident.

17 "The Japanese Government in the fervent hope  
18 that the friendly relations between Japan and the  
19 United States will not be affected by this unfortunate  
20 affair, have frankly stated as above their sincere  
21 attitude, which I beg Your Excellency to make known  
22 to your Government.

23 "I avail myself of this opportunity to renew  
24 to Your Excellency the expression of my highest consider-  
25 ation.

1 "Signed: Koki HIROTA.

2 "His Excellency, Mr. Joseph C. Grew,  
3 Ambassador of the United States to Japan."

4 Now we shall offer defense document No. 330.  
5 This is a statement made by the military section of  
6 General Headquarters on December 22, 1947. It will  
7 evidence the fact that the Japanese armed troops  
8 stationed near the scene immediately relieved the  
9 injured and tried to stop the bombing and the fact that  
10 no machinegun was fired.

11 THE PRESIDENT: Brigadier Nolan.

12 BRIGADIER NOLAN: May it please the Tribunal,  
13 we object to this document No. 330. It is a press  
14 release emanating not from the War Ministry, as one  
15 might suppose, but from the Foreign Office. On several  
16 occasions the Tribunal has indicated that if a report  
17 were from a formation in the field it might be adduced  
18 in evidence. An examination of this report will make  
19 it clear that it is not a report from a formation in  
20 the field but it is something that has been dressed  
21 up, as the last paragraph will make abundantly clear.

22 THE PRESIDENT: Mr. SOMIYA.

23 MR. SOMIYA: This is a release or announce-  
24 ment made by the Army Department of the Imperial General  
25 Headquarters, and there is a certificate from the Foreign

1 Office attached. In my understanding this is an announce-  
2 ment of the Imperial General Headquarters in the files  
3 of the Foreign Office, and I believe that this certifi-  
4 cate is correct and accurate. As regards the document,  
5 the contents of the document, this is -- they are a  
6 result of an investigation. Even in the case of the  
7 prosecution during its presentation of evidence, it  
8 has offered in evidence which was not carried out on  
9 the spot and has been admitted.

10 THE INTERPRETER: Even during the prosecu-  
11 tion's presentation of evidence, reports of investiga-  
12 tions not carried out in the field or on the spot have  
13 been accepted by this Court.

14 MR. SOMIYA: The Court has also admitted a  
15 report of the United States inquiry commission on the  
16 Panay Incident, and in view of that fact I believe that  
17 this document should also be accepted into evidence.

18 THE PRESIDENT: By a majority the Tribunal  
19 upholds the objection and rejects the document.

20 MR. SOMIYA: Next I shall offer in evidence  
21 defense document No. 82, the statement of the Foreign  
22 Office issued on December 24, 1937, concerning this  
23 incident by which I shall establish that in view of  
24 this incident the Japanese Government took such  
25 prudential measures as to further send an instruction



1 to units on the spot to especially respect the rights  
2 and interests of third nations.

3 THE PRESIDENT: Admitted on the usual terms.

4 CLERK OF THE COURT: Defense document 82  
5 will be given exhibit No. 2522.

6 (Whereupon, the document above  
7 referred to was marked defense exhibit  
8 No. 2522 and received in evidence.)

9 MR. SOMIYA: I shall read a part of exhibit  
10 No. 2522. The middle of page 2:

11 "With reference to the first two items of the  
12 requests mentioned in Your Excellency's Note, namely,  
13 a recorded expression of regret, and indemnifications,  
14 no word needs to be added to what I have said in my  
15 aforementioned Note. As regards the guarantee for  
16 the future, I wish to inform Your Excellency that the  
17 Japanese Navy issued without delay strict orders to  
18 'exercise the greatest caution in every area where  
19 warships and other vessels of America or any other third  
20 Power are present, in order to avoid a recurrence of  
21 a similar mistake'. Furthermore, rigid orders have  
22 been issued to the military, naval, and foreign office  
23 authorities to pay, in the light of the present un-  
24 toward incident, greater attention than hitherto to  
25 observance of the instructions that have been repeatedly

1 given against infringement of the rights and interests  
2 of the United States and other third Powers. And the  
3 Japanese Government are studying carefully every  
4 possible means of achieving more effectively the above-  
5 stated aims, while they have already taken steps to  
6 ascertain, in still closer contact with American  
7 authorities in China, the whereabouts of American  
8 interests and nationals, and to improve the means of  
9 communicating intelligence thereof speedily and effec-  
10 tively to the authorities on the spot.

11 "Although the attack on the man-of-war and  
12 other vessels of the United States was due to a mis-  
13 take as has been stated above, those who were concerned  
14 with the attack have been duly dealt with, on the  
15 ground of a failure to take the fullest measures of  
16 precaution. The Japanese Government are thus endeavour-  
17 ing to preclude absolutely all possibility of the  
18 recurrence of incidents of a similar character. It  
19 is my fervent hope that the fact will be fully appreci-  
20 ated by the Government of the United States that this  
21 drastic step has been taken solely because of the  
22 sincere desire of the Japanese Government to safe-  
23 guard the rights and interests of the United States  
24 and other third Powers.

25 "I avail myself of this opportunity to renew

1 to Your Excellency the assurances of my highest  
2 consideration."

3 I should add the title: "From Foreign Office  
4 announcement concerning the Panay Incident. Foreign  
5 Minister HIROTA requested U.S. Ambassadors to Japan  
6 Grew to call on him on 24 December 1937 and handed  
7 him a reply concerning the Panay Incident."

8 THE PRESIDENT: We will recess for fifteen  
9 minutes.

10 (Whereupon, at 1445, a recess was  
11 taken until 1500, after which the proceedings  
12 were resumed as follows:)  
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1 MARSHAL OF THE COURT: The International  
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. SOMIYA.

4 MR. SOMIYA: Next I shall offer in evidence  
5 defense document No. 81, a communication from the  
6 American Ambassador under date of December 26, 1937,  
7 by which I shall give proof of the American  
8 Government's satisfaction with the measures taken  
9 by the Japanese Government.

10 THE PRESIDENT: Admitted on the usual  
11 terms.

12 CLERK OF THE COURT: Defense document  
13 No. 81 will receive exhibit No. 2523.

14 (Whereupon, the document above re-  
15 ferred to was marked defense exhibit No. 2523  
16 and received in evidence.)

17 MR. SOMIYA: I shall read Court exhibit  
18 2523.

19 (Reading): "NOTE OF THE GOVERNMENT OF THE  
20 UNITED STATES TO THE JAPANESE GOVERNMENT, DATED  
21 DECEMBER 26, 1937, REGARDING THE PANAY INCIDENT.

22 "Embassy of the United States of America  
23 "Tokyo, December 26, 1937.

24 "Excellency:  
25

"I have the honor, by the direction of my

1 Government, to address to Your Excellency the  
2 following note:

3 "The Government of the United States refers  
4 to its note of December 14, the Japanese Government's  
5 note of December 14 and the Japanese Government's  
6 note of December 24 in regard to the attack by  
7 Japanese armed forces upon the U.S.S. PANAY and  
8 three American merchant ships.

9 "In this Government's note of December 14  
10 it was stated that "The Government of the United  
11 States requests and expects of the Japanese Govern-  
12 ment a formally recorded expression of regret,  
13 an understanding to make complete and comprehensive  
14 indemnifications, and an assurance that definite  
15 and specific steps have been taken which will ensure  
16 that hereafter American nationals, interests and  
17 property in China will not be subjected to attack  
18 by Japanese armed forces or unlawful interference by  
19 any Japanese authorities or forces whatsoever."

20 "In regard to the first two items of the  
21 request made by the Government of the United States,  
22 the Japanese Government's note of December 24 reaffirms  
23 statements made in the Japanese Government's note of  
24 December 14 which read "The Japanese Government  
25 regret most profoundly that it (the present incident)

1 has caused damages to the United States' man-of-war  
2 and ships and casualties among those on board, and  
3 desire to present hereby sincere apologies. The  
4 Japanese Government will make indemnifications for  
5 all the losses and will deal appropriately with  
6 those responsible for the incident." In regard  
7 to the third item of the request made by the United  
8 States, the Japanese Government's note of December 24  
9 recites certain definite and specific steps which  
10 the Japanese Government has taken to ensure, in  
11 words of that note, "against infringement of, or  
12 unwarranted interference with, the rights and  
13 interests of the United States and other third  
14 Powers" and states that "The Japanese Government  
15 are thus endeavoring to preclude absolutely all  
16 possibility of the recurrence of incidents of a  
17 similar character."

18 "The Government of the United States  
19 observed with satisfaction the promptness with  
20 which the Japanese Government in its note of  
21 December 14 admitted responsibility, expressed  
22 regret, and offered amends.

23 "The Government of the United States regards  
24 the Japanese Government's account, as set forth in  
25 the Japanese Government's note of December 24, of



1 action taken by it as responsive to the request  
2 made by the Government of the United States in this  
3 Government's note of December 14.

4 "With regard to the facts of the origins,  
5 causes and circumstances of the incident, the  
6 Japanese Government indicates in its note of  
7 December 24 the conclusion at which the Japanese  
8 Government, as a result of its investigation,  
9 has arrived. With regard to those same matters,  
10 the Government of the United States relies on the  
11 report of findings of the court of inquiry of the  
12 United States Navy, a copy of which has been com-  
13 municated officially to the Japanese Government.

14 "It is the earnest hope of the Government  
15 of the United States that the steps which the  
16 Japanese Government has taken will prove effective  
17 toward preventing any further attacks or unlawful  
18 interference by Japanese authorities or forces with  
19 American nationals, interests or property in China."  
20

21 "I avail myself of this opportunity to renew  
22 to Your Excellency the assurances of my highest  
23 consideration.

24 "Signed: Joseph C. Grew.

25 "His Excellency, Mr. Koki HIRATA, His Imperial  
Japanese Majesty's Minister for Foreign Affairs."

1 I next offer in evidence defense document  
2 No. 1196, the statement of the Foreign Office issued  
3 on March 23, 1938, by which I wish to establish the  
4 amount of indemnity claimed by the American Govern-  
5 ment.

6 THE PRESIDENT: Brigadier Nolan.

7 BRIGADIER NOLAN: May it please the Tribunal,  
8 this document No. 1196 is a press release from the  
9 Foreign Office. It is open to the objection that  
10 it purports to prove the contents of the diplomatic  
11 note and we submit the proper proof of the note  
12 should be production of the document itself.

13 THE PRESIDENT: In a matter of this im-  
14 portance undoubtedly that is so.

15 MR. SOMIYA: The Foreign Office certificate  
16 does not certify to any press release or newspaper  
17 story. The contents of this document carries the  
18 note of the United States Ambassador. The entire  
19 contents of this document is of an official character.

20 THE PRESIDENT: The certificate is not as to  
21 the dispatch itself, but as to the statement of the  
22 Foreign Office which includes the note or purports  
23 to do so.

24 I have been asked by at least two Members  
25 of the Tribunal to inquire whether the prosecution

1 contest the accuracy of the dispatch mentioned in  
2 the statement of the Foreign Office.

3 BRIGADIER NOLAN: May it please your Honor,  
4 the dispatch as contained in document 1196 has  
5 proven after investigation to be a true and accurate  
6 copy of the original document.

7 THE PRESIDENT: By a majority the Tribunal  
8 overrules the objection and admits the document.

9 CLERK OF THE COURT: Defense document  
10 No. 1196 will receive exhibit No. 2524.

11 (Whereupon, the document above re-  
12 ferred to was marked defense exhibit No. 2524  
13 and received in evidence.)  
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1 MR. SOMIYA: I shall read exhibit 2524.

2 MR. ROBERTS: There is obviously an error  
3 in reading the English copy. The date was read as  
4 March 23, 1933; it should be 1938.

5 THE PRESIDENT: It is 1938 in the Judges'  
6 copies.

7 MR. SOMIYA: I next offer in evidence  
8 defense document No. 401-21, to show that repara-  
9 tions have already been made.

10 THE PRESIDENT: Brigadier Nolan.

11 BRIGADIER NOLAN: If it please the  
12 Tribunal, the prosecution objects to document 401-21  
13 on the ground that it does not add anything to what  
14 we already know. It is, we submit, merely recapitu-  
15 lation of the diplomatic steps which were taken in  
16 this matter, proof of which is already in evidence.

17 MR. SOMIYA: I intend to read only the last  
18 two lines of this document, that is, with respect  
19 to the indemnification in accordance with the Ameri-  
20 can request --

21 THE MONITOR: Completion of indemnification.

22 THE PRESIDENT: How is it relevant or mater-  
23 ial?  
24

25 MR. SOMIYA: I think it is relevant to show  
that the indemnification with regard to the PANAY

1 had been paid by the Japanese Government.

2 THE PRESIDENT: Is that in your evidence,  
3 in the prosecution's, that the indemnity was paid?

4 MR. TAVENNER: No, sir, the fact that  
5 indemnity was paid does not appear in the prosecu-  
6 tion's evidence.

7 MR. SOMIYA: Furthermore, this document is  
8 an official document of the United States Department  
9 of State.

10 THE PRESIDENT: It is the last two lines  
11 of the first page that state the indemnity was paid.

12 MR. SOMIYA: In the Japanese text it is the  
13 last fourth and fifth lines of the last page; in the  
14 English copy the last two lines of the first page.

15 THE PRESIDENT: That is right.

16 The objection is overruled and the document  
17 admitted to that extent, that is to say, the extent  
18 of the last two lines on the first page.

19 CLERK OF THE COURT: Defense document  
20 401-21 will receive exhibit No. 2525.

21 (Whereupon, the document above referred  
22 to was marked defense exhibit 2525 and received  
23 in evidence.)

24 MR. SOMIYA: I shall read exhibit 2525, the  
25 last two lines.

1 "The Japanese Government later made full  
2 indemnification in accordance with the request of  
3 the United States."

4 MR. SOMIYA: I next offer in evidence defense  
5 document No. 206-D-19, being excerpts from the diary  
6 of former United States Ambassador Grew. I intend  
7 only to read a portion of this document.

8 THE PRESIDENT: Brigadier Nolan.

9 BRIGADIER NOLAN: May it please the Tribunal,  
10 the prosecution object to the introduction of this  
11 document. It is another excerpt from the diary of  
12 former United States Ambassador Grew. The first  
13 paragraph is clearly irrelevant, as it only purports  
14 to give us the opinion of Mr. Grew on the American  
15 political situation. The remainder of the document  
16 deals with what took place at a conference and what  
17 the Ambassador said and what he subsequently did in  
18 respect of the exchange of notes.

19 It is also submitted by the prosecution  
20 that, having regard to the importance of evidence  
21 of this kind, another method of proof should be uti-  
22 lized by the defense.

23 MR. SOMIYA: I intend only to read the second  
24 paragraph of this document. This is a note with  
25 respect to an official conference which took place



AOKI

DIRECT

1 in the official residence of Ambassador Grew. The  
2 contents therein recorded are facts and therefore I  
3 believe that it should be admitted as evidence.

4 THE PRESIDENT: By a majority the Court  
5 upholds the objection and rejects the document.

6 MR. SOMIYA: Defense counsel Roberts will  
7 next ask to call a witness, AOKI, Takeshi.

8 THE PRESIDENT: Mr. Roberts.

9 MR. ROBERTS: We call the witness AOKI,  
10 Takeshi.

11 THE PRESIDENT: Did you say you were recall-  
12 ing him?

13 MR. ROBERTS: We are calling him.

14 - - -

15 T A K E S H I A O K I, called as a witness on  
16 behalf of the defense, being first sworn,  
17 testified through Japanese interpreters as  
18 follows:

19 DIRECT EXAMINATION

20 BY MR. ROBERTS:

21 Q Please state your name and address.

22 A Name, AOKI, Takeshi; my address, No. 761  
23 Horiuchi, Hayama, Kanagawa-Ken Prefecture.

24 MR. ROBERTS: May the witness be shown  
25 defense document No. 1291?

AOKI

DIRECT

1 (Whereupon, a document was handed to  
2 the witness.)

3 Q Please examine this document and tell us  
4 whether or not it is your sworn affidavit.

5 A (Examining) This is my affidavit.

6 MR. ROBERTS: I offer it in evidence.

7 THE PRESIDENT: Admitted on the usual  
8 terms.

9 CLERK OF THE COURT: Defense document 1291  
10 will receive exhibit No. 2526.

11 (Whereupon, the document above referred  
12 to was marked defense exhibit 2526 and received  
13 in evidence.)  
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1 MR. ROBERTS: I read exhibit No. 2526.

2 "I was the Liaison Officer between the  
3 Second Combined Air Corps and the Expeditionary  
4 Forces in China. I arrived in Shanghai in mid-  
5 September 1937. I was a staff officer of the Third  
6 Fleet and concurrently a staff officer of the Shanghai  
7 Expeditionary Forces.

8 "My duties were to supply information to  
9 the Naval forces and to send requests from the Army  
10 to the Navy. I was also a Naval expert within the  
11 Army and in order to maintain liaison I made  
12 periodic flights to and from the airfield and the Head-  
13 quarters of the Third Fleet.

14 "On December 12, 1937 requests were  
15 received from the Army to bomb Chinese ships in which  
16 Chinese soldiers were fleeing from Nanking. It was  
17 reported that seven or eight large Chinese merchants  
18 ships filled with Chinese troops were fleeing up the  
19 Yangtze River and they requested assistance from the  
20 Naval Air Squadron in preventing this movement. I  
21 transmitted this request to the Air Corps by telephone.  
22 The Air Corps consented and sent several planes on  
23 the requested mission.

24 "At that time, according to the Army reports,  
25 there were no foreign ships in the vicinity of



1 Nanking. It was later reported that the mission was  
2 carried out with excellent results.

3 "On December 14, 1937, I heard for the first  
4 time the bombing of the SS 'Panay.' The first report  
5 stated that a foreign ship might have been bombed and  
6 I became aware of the facts when I reached Shanghai to  
7 investigate the facts in connection with this report.  
8 At Shanghai I discovered that the 'Panay' had been  
9 bombed in error, having been mistaken for one of the  
10 Chinese vessels attempting to flee from Nanking. The  
11 subsequent report of the pilot stated that the bombing  
12 of the 'Panay' was clearly an error on his part and  
13 that he had no intention of bombing a foreign vessel.  
14 It was his belief that the 'Panay' was one of the  
15 Chinese vessels fleeing from Nanking.

16 "In so far as the reported machine gunning of  
17 the crew is concerned, the report of the pilot denied  
18 that such machine gunning had taken place. It was  
19 not the practice of the pilots in such bombing missions  
20 to machine gun their targets.

21 "Very strict orders had been issued by the  
22 Commander of the Third Fleet and the Commander of the  
23 Air Corps that care should be taken not to bomb  
24 foreign ships and this incident was regarded with  
25 extreme regret. For that reason, those who were

1 regarded as being guilty of carelessness or possible  
2 negligence were punished."

3 You may cross-examine.

4 THE PRESIDENT: Mr. Sutton.

5 MR. SUTTON: If it please the Tribunal,  
6 the prosecution does not desire to cross-examine  
7 for the reason that its evidence with regard to the  
8 Panay Incident appears in the report of the U. S.  
9 Navy Board of Inquiry, exhibit 263, pages 3517 to  
10 3530 of the transcript of proceedings, and in excerpts  
11 from the interrogation of HASHIMOTO which appear as  
12 exhibit 258 at page 3466 and exhibit 2188 at page  
13 15678 of the transcript of proceedings.

14 THE PRESIDENT: Mr. Roberts.

15 MR. ROBERTS: I now present Mr. Harris,  
16 who will present further proof -- I ask that the  
17 witness be excused on the usual terms.

18 THE PRESIDENT: He is excused accordingly.

19 (Whereupon, the witness was excused.)

20 THE PRESIDENT: Mr. Harris.

21 MR. HARRIS: Mr. President, we shall now  
22 offer proof through three brief documents concerning  
23 the incident which occurred on 12 December 1937 when  
24 the British vessel, Ladybird, was shelled at Wuhu  
25 because of mistaken identity.

1 We now offer in evidence defense document  
2 No. 1039, which is the official note of the Japanese  
3 Government which the Foreign Minister, HIROTA, Koki,  
4 sent to Sir Robert Craigie on December 14, 1937,  
5 regarding the incident of the shelling of the Ladybird.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Defense document 1039  
8 will receive exhibit No. 2527.

9 (Whereupon, the document above  
10 referred to was marked defense exhibit  
11 No. 2527 and received in evidence.)

12 MR. HARRIS: I shall now read exhibit No. 2527.

13 "The Official Note of the Japanese Government  
14 which the Foreign Minister, HIROTA, Koki, Sent to  
15 Sir Robert Craigie (December 14, 1937).

16 "Monsieur l'Ambassadeur:

17 "I have the honour to state that the  
18 Japanese Government regret profoundly the incidents  
19 of the 12th instant, in which British men-of-war, the  
20 Ladybird, the Bee, the Cricket and the Scarab, were  
21 subjected by mistake to gunfire and aerial bombing  
22 by Japanese forces in the vicinities of Wuhu and Nan-  
23 king, and to express herewith to Your Excellency on  
24 behalf of my Government their sincere apologies. I  
25 desire to inform Your Excellency that the Japanese



1 Government have immediately taken the necessary steps  
2 to prevent the recurrence of an incident of such  
3 character, and to add that they will, upon the com-  
4 pletion of investigations, deal appropriately with  
5 those responsible for the incidents, and also that  
6 they are prepared to make the necessary indemnification  
7 for the losses sustained by the British.

8 "It is, let me say in conclusion, the fervent  
9 hope of the Japanese Government that the traditional  
10 friendship between Japan and Great Britain will not  
11 be affected by these unfortunate incidents.

12 "I avail myself of this opportunity of  
13 renewing to Your Excellency the assurances of my  
14 high considerations.

15 "(signed) Koki, HIROTA.

16 "His Excellency, The Right Honourable  
17 Sir Robert Craigie."

18 We now offer in evidence defense document  
19 No. 170, which is an official statement made on  
20 30 December 1937 by the Japanese Foreign Office  
21 regarding the incident of the shelling of the Lady-  
22 bird.

23 THE PRESIDENT: Brigadier Nolan.

24 BRIGADIER NOLAN: May it please the  
25 Tribunal, we object to document 170 as being a press

1 release emanating from the Foreign Office.

2 While I have made no investigation as to  
3 the Japanese note contained in the document, I would  
4 like to draw the attention of the Tribunal to the  
5 statement contained in the document that it is only  
6 the essential contents of the note that are being  
7 reproduced.

8 MR. HARRIS: It is true that this is a state-  
9 ment of the Foreign Office regarding the incident, but  
10 it is maintained that the contents of the Japanese  
11 note are contained in the passage which appears below  
12 the first paragraph.

13 The certificate indicates that this is an  
14 exact and true copy of the official translation of  
15 the Japanese Foreign Office.

16 THE PRESIDENT: Can't you get the full text?

17 MR. HARRIS: I might add, Mr. President, that  
18 an attempt was made to get the original note but the  
19 reply to our request was received too late for us to  
20 process it and have it available. I would further  
21 like to state, Mr. President, that we have the state-  
22 ment of the Foreign Office to the effect that the  
23 original note is not available after a search of the  
24 records.

25 THE PRESIDENT: Well, London will have the

1 original, of course.

2 MR. HARRIS: It is our intention to take  
3 the necessary steps to try to secure that, sir.

4 THE PRESIDENT: Whether these are the essen-  
5 tial contents we don't know. That apparently is the  
6 opinion of the person who drafted this.

7 MR. HARRIS: Of course, I assumed, when we  
8 requested the Foreign Office official document setting  
9 forth the contents of the note of the 28th of December  
10 and we received this, that this was the official note.

11 THE PRESIDENT: By a majority the Court  
12 upholds the objection and rejects the document.  
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1 MR. HARRIS: We now offer in evidence  
2 defense document No. 1013 which is a certified  
3 statement from the British Foreign Office acknowl-  
4 edging the payment by the Japanese Government of  
5 the British Government's claim for damages to the  
6 "Ladybird."

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Defense document 1013  
9 will receive exhibit No. 2528.

10 (Whereupon, the document above re-  
11 ferred to was marked defense exhibit No. 2528  
12 and received in evidence.)

13 MR. HARRIS: I shall now read exhibit No. 2528.

14 "United Kingdom Liaison Mission in Japan,  
15 British Embassy, Tokyo.

16 "Certificate

17 "His Majesty's Ship LADYBIKD was damaged by  
18 Japanese artillery fire at Wuhu on December 12th,  
19 1937. Damage was originally assessed at 3,830 pounds  
20 but this figure was later reduced to 2,942 pounds.  
21 A claim for 2,942 pounds was presented to the Japanese  
22 Government on August 18th, 1938, and a cheque for  
23 this amount was paid to His Majesty's Ambassador,  
24 Tokyo, on August 31st, 1938.

25 "(Signed) A. D. F. Gascoigne. His Britannic

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1 Majesty's Political Representative and Head of the  
2 United Kingdom Liaison Mission in Japan.

3 "20th March, 1947."

4 This concludes for the present the list of  
5 documents to be introduced by me in relation to the  
6 "Ladybird" Incident.

7 Mr. Roberts will now proceed with the presenta-  
8 tion of further evidence.

9 THE PRESIDENT: Mr. Roberts.

10 MR. ROBERTS: We call the witness TOTSUKA,  
11 Michitaro.

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TOTSUKA

DIRECT

1 M I C H I T A R O T O T S U K A, called as a witness  
2 on behalf of the defense, being first duly sworn,  
3 testified through Japanese interpreters as follows:

## DIRECT EXAMINATION

BY MR. ROBERTS:

Q Please state your name and address.

7 A My name, TOTSUKA, Michitaro, No. 17 Naka-  
8 machi, Nakano-ku, Tokyo.

9 MR. ROBERTS: May the witness be shown de-  
10 fense document No. 1276.

11 (Whereupon, a document was handed  
12 to the witness.)

13 Q Please examine this document and tell us  
14 whether or not it is your sworn affidavit.

A This is my affidavit.

MR. ROBERTS: I offer it in evidence.

THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Defense document 1276  
19 will receive exhibit No. 2529.

21 (Whereupon, the document above re-  
22 ferred to was marked defense exhibit No. 2529  
23 and received in evidence.)

24 MR. ROBERTS: There is one correction on  
25 line 3: "The Third Combined Air Corps" should be  
"First Combined Air Corps."

TOTSUKA

DIRECT

I read exhibit 2529.

"I was appointed Commander of the First Combined Air Corps in July 1937. The above mentioned air corps was stationed in Taihoku, Formosa, and Quelpart Island.

"On August 14, 1937, the Chinese Air Corps carried out an attack on the cruiser 'Izumo' in Shanghai Harbor as well as the Marine Headquarters. In retaliation, we bombed the Chinese Air Base in Nanking on August 15, 1937. In the early part of September 1937, the Chinese air strength was transferred southward to Canton and they bombed the cruiser 'Yubari' on the South China coast. We therefore bombed the Air Base in Canton in an attempt to wipe out the Chinese Air Force.

"Subsequently we undertook the destruction of railways and communications after receiving reports that the Chinese Army was moving northward.

"We received instruction and orders from the Third Fleet as to the objectives to be bombed. Those instructions were to bomb only airfields, arsenals, military installations, munition dumps, military schools, and other military targets. At no time did we bomb any city or town indiscriminately without a military objective in view.

1 "The air corps had reconnaissance planes bring-  
2 ing in reports and we consulted our maps for objec-  
3 tives to be bombed. We made use of aerial photographs  
4 in an effort to bomb accurately.

5 "Of course, on occasion we did not succeed  
6 in scoring a direct hit on our targets and some unavoid-  
7 able accidents occurred. At times the Chinese anti-  
8 aircraft was extremely effective and we were forced  
9 to fly at high altitudes over our objectives. As  
10 soon as we bombed, we took photographs and studied  
11 the results of our bombing for the purpose of achiev-  
12 ing greater accuracy. We never at any time inten-  
13 tionally bombed non-military objectives or installa-  
14 tions. On any occasion when we failed to achieve  
15 accurate bombing and damaged some non-military installa-  
16 tions, we were warned by the General Staff to exercise  
17 more care. I constantly instructed the pilots and  
18 commander to exercise caution in their bombing missions.  
19 On some occasions, even though we suspected the Chinese  
20 of displaying the flag of a third power, we refrained  
21 from bombing in order to be doubly sure. Giving an  
22 example here, in August 1938 when the Chinese soldiers  
23 were fleeing up the Yangtze River from Hankow, and just  
24 as our planes were about to bomb, a French flag was  
25 hoisted on the ship which we knew for sure they were



on, therefore our planes returned without bombing.

There were other cases similar in nature and although we knew the Chinese were hiding behind a foreign flag, our men were instructed to refrain from bombing because of the possibility of being mistaken.

"In some instances of our bombing missions, we would not use the bomb sight, and resorted to the hand-operated device and a stop watch in order to make certain of our target before releasing the bombs.

"The pilots were initially furnished maps by the General Staff for the purpose of determining military objectives and showing general location of the third power installation. Maps indicating installations of the third powers based on information furnished directly by the third powers were distributed later for our guidance. Therefore, it greatly aided us in directing our attacks on enemy positions and installations only."

You may cross-examine.

THE PRESIDENT: Mr. Tavenner.

MR. TAVENNER: If it please the Tribunal, there will be no cross-examination.

THE PRESIDENT: Do you want the witness excused?

MR. ROBERTS: May the witness be excused

1 on the usual terms?

2 THE PRESIDENT: He is excused accordingly.

3 MR. ROBERTS: We offer in evidence defense  
4 document 1131, which is a statement emanating from  
5 the Foreign Office concerning the attempt on the  
6 part of Chinese censors to manipulate dispatches of  
7 foreign correspondents and is intended to correct  
8 the distortion of facts by the Chinese censors.

9 THE PRESIDENT: Brigadier Nolan.

10 BRIGADIER NOLAN: May it please the Tribunal,  
11 we object to document 1131. It is, we submit, a  
12 press dispatch of a kind that has been rejected on  
13 numerous occasions by the Tribunal. It purports to  
14 say what was in a dispatch and how it was altered by  
15 the censors.

16 MR. ROBERTS: I think this press dispatch  
17 objection is being slightly overused by the prosecu-  
18 tion.

19 THE PRESIDENT: Press release.

20 MR. ROBERTS: Press release.

21 The certificate states it to be an exact  
22 and true copy of an official document of the Japanese  
23 Foreign Office, and it states certain facts with  
24 reference to bombing of the Sincere Department Store.

25 THE PRESIDENT: By a majority, the Tribunal

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It is too late now to take any other business

We will adjourn now until half past nine  
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(Whereupon, at 1555, an adjournment was  
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